

CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI, SHIMLA-9
No. CGRF/Complaint No. 3325/3/20/011 **Dated:-**

Complaint No.: - 3325/3/20/011
Date of Admission: - 16.08.2021
Quorum: - Dr. M.G. Sharma, Chairman.
Er. Vikas Gupta, Member.
Sh. K.S Dhaulta, Member.

Vardhman Ispat Udyog,
Village Bathri, Tehsil Haroli,
Near Tahliwala, Distt. Una (HP).

Complainant

V/s.

1. The Executive Director (Pers.),
HPSEBL, Vidyut Bhawan,
Shimla-171004.
2. Sr. Executive Engineer,
Electrical Division, HPSEBL,
Gagret, Distt. Una (HP).
3. Assistant Executive Engineer,
Electrical Sub-Division HPSEBL,
Tahliwala, Distt. Una (HP).

Respondents

Final hearing:-

24.09.2021

Present for:-

Complainant

1. Rakesh Bansal, Authorized Representative

Respondent

1. Sh. Anil Kumar God, Advocate
2. Er. Surjeet Singh A.E. Tahliwal

Date of Decision: -

24.09.21

ORDER

1. Complainant is consumer of HPSEBL, having Connected Load 4398.345KW and contract demand 4888KVA and engaged in steel casting business.
2. Initially the connected load of H.N. Steel was 1898.345KW and contract demand 2000 KVA. The complaint requested for the extension of same vide their letter dated 13.06.2011 which was extended by the Respondent upto 4398,345 KW connected load and contract demand 4888 KVA approved by Chief Engineer (Comm.) letter dated 21.10.2011 on which the Respondent served the demand notice on 22.12.2011 Annexed at C-4 of original case file.
3. The Respondent has served notice to the complainant initially amounting to Rs.13,26,576/- only (Rs.13.27 Lakh approx.) recovery of demand charges as load retention charges on 20.11.2013 based on the RAO Audit w.e.f. 4/10 to 3/2012 and issued by Sr. Accounts Officer letter dated 18.12.2012. The Respondent has also served notice on dated 14.07.2014 for recovery of same amount.
4. RAO audit note is placed at RA 2.1 of the Respondent Board's reply wherein it has referred to and relied upon Regulation 3.9 of supply Code May/2009 issued by HPERC which stipulates as under:-

“In case of HT of HT/EHT supply, where the licensee has completed the work required for supply of electricity to an applicant, but the applicant is not ready or delays to receive supply of electricity or does not avail the full contract demand, the licensee shall, after a notice of sixty days, charge on prorated basis, fixed/demand charges on the sanctioned contract demand as per the relevant Tariff Order.....”
5. Respondents further contended that by taking cognizance of above Regulations, the RAO has concluded and accordingly pointed out that M/s H.N. Steel casting has to deposit fixed demand charges on the enhanced addition load of 2888KVA after the expiry of 60 days. The complainant during the course of hearing sought the details of calculations made by Respondents to raise the demand of Rs.13.27 Lakh. Accordingly the Respondents were directed to provide the details and calculation sheet of levying Rs. 13.27 Lacs approx, have been provided by the Respondent to complainant and to Forum

w.e.f. 01.01.2012 to March/2012. The calculation sheet is placed on case file as Annexed RA 13.1.

6. The fact is uncontroverted that complainant H.N. Steel vide its letter dated 07.11.2012 has also stated that their financial position was not good prior to this. The complainant had further stated that their financial position is good and they will be ready to use power from 33KV line and requested the Respondent to issued fresh demand notice. The complainant vide their affidavit RA-11 & RA-12 of dated 24.01.2012 & 05.02.2013 respectively has also intimated that they will deposit remaining IDC as per actual prevailing rates as well as demand charge within 2 months failing which their supply is liable for disconnection.
7. The permanent disconnection of M/s H.N. Steel stated to had been done and effected on 30.09.2015 due to non-deposit of bills mainly owing to poor financial condition and request made for RCO on 20.02.2018.
8. The PDCO of M/s H.N Steel has been affected on 30.09.15 due to non deposit of bills as stated in para above owing to complainants poor financial condition and request made for RCO on 20.02.18.
9. The H.N. Steel had been served notice again on 16.05.2017 by the Respondent to deposit an amount of Rs.13.27. lakh approximately, subsequent to notice dated 01.02.2018 placed at C-2 & C-3 of case file.
10. M/s H.N. Steel had also given an undertaking as per record, to pay to the tune of Rs.16,65,575/- on account LVSS and demand charges against notice dated 19.02.2018 issued by Assistant Engineer Tahliwal, in six equal installments through their energy bill in future which is also placed on record in case file.
11. The present complainant has taken over the company from M/s H.N. Steel on dated 17.04.2019 as per the record placed on the file.
12. The complainant has been again served notice/or demand/bill on dated 15.06.2020 by the Respondent in which sundry charges of Rs.13.27 lac approximately have been mentioned, which has resulted in filing of this complaint. The main relief sought by the complainant that the demand of Rs.13.27 Lakh raised and charged in the bill issued in the month of June, 2020 may be quashed and set-aside on account of limitation prescribed under section 56(2) of Electricity act, 2003 read with limitation Act,1963.

13. Both the parties have been heard at length. As per record, and evidences adduced by the parties and case laws on the matter during the course of hearing before the Forum, it is safely concluded by the Forum that the plea raised by complainant in view of Electricity Act, 2003 and of Supply Code, 2009 regulations on the matter; do not hold good in the light of continuous demand raised since 2011 (C4) onwards as stated in paras supra and recent Hon'ble Supreme Court Judgment on the issue of limitation, under section 56(2) of Electricity Act, 2003 and time barred demand etc. The Hon'ble Apex Court in a case titled **Assistant Engineer (D1) Ajmer Vidyut Vitran Nigam Limited & Anr Nersun Rahmatullah Khan alias Rahamjulla, Civil Appeal No.1672 of 2020 arising out of SLP (Civil) No.5190 of 2019**, clearly held that section 56(2) however, does not preclude the licensee company from raising a supplementary demand after the expiry of the limitation period of two years. It only restricts the right of the licensee to disconnect electricity supply due to no-payment of dues after the period of limitation of two years has expired, nor does it restricts other modes of recovery which may be initiated by licensee company to recovery of a supplementary demand.
14. Thus applying the ratio to the facts of the present case, the licensee company raised an additional demand of Rs.13.27 Lakh (C2) and subsequently in the year 2020, (C1), it is found that Licensee Company has rightly raised the demand and can't be held barred by limitation. Moreover, as already observed in paras supra, that the demand of Rs.13.27 Lakh approximately is being raised by Respondent Board from time to time since 2011-12 and reflected in the bills of complaint as evident from C1 bill dated 15.06.2020. Thus, the issue of time barred and limitation, as raised by complainant is not tenable and rejected accordingly in the facts and circumstances narrated here in above.
15. Now the matter is examined on merits. The forum considered the facts on record and documents placed by the parties in support of their contentions. It is brought on record that the Respondent Board has issued the notice after raising the demand w.e.f. 22.12.2011 which is not in conformity with the express provisions of Supply Code, 2009 referred above. In fact the demand raised, as sundry charge provisions of Rs.13.27 Lakh approximately should have been calculated in bill C1 dated 15.06.2020. w.e.f. 21.02.2012 instead of 22.12.2011 i.e., after expiry of 60 days from initial notice dated 22.12.2011, as per regulation 3.9 of ibid Supply Code, 2009. Further facts raised by the RAO audit

placed on record as RA 2.1, referring to Regulation 3.9 of Supply Code, 2009, are logical and correct, However, it has been observed by us that applicability of demand charges on additional extended load should be made after the expiry of 60 days of the initial demand notice issued on dated 22.12.2011 by the Respondent.

16. Therefore, the enhanced demand should be levied by the Respondents w.e.f. 21.02.2012.

In view of the above observations, the demand raised by the Respondents vide Annexure C-1 is quashed and set-aside and HPSEBL is further directed to levy fixed demand charges @90% of enhanced contract demand 4888KVA w.e.f. 21.02.2012 onwards and issue the fresh bill/demand accordingly. On the aforesaid terms the excess demand charges worked out in the month of January,2012 upto 20.02.2012, required to be refunded to the complainant company, by way of adjustment in future energy bills strictly in accordance to Regulation 3.9 of Supply Code, 2009 and by applying relevant tariff prevailing at that point of time.

In terms of above, the case is disposed of partly in favour of complainant in pursuance of the CGRF and Ombudsman Regulations, 2013, as well as, relevant Regulation No.3.9. of the Electricity Supply Code, 2009. The parties are left to bear their run costs. Announced before the parties present at Shimla on 24.09.2021.

The file is consigned to the record along with original copy of the order. The certified copy of order be kept in safe custody in the folder of order. Certified copies of this order be supplied to all parties.

Place: - Shimla

Dated: -24.09.21

-Sd-
(K.S.Dhaulta)
(Member)

-Sd-
(Vikas Gupta)
(Members)

-Sd-
(M.G. Sharma)
(Chairman)

Notice

CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI SHIMLA-171009.
No.CGRF/Complaint No. 3325/3/20/011 **Registered**
Dated:-

Vardhman Ispat Udyog,
Village Bathri, Tehsil Haroli,
Near Tahliwala, Distt. Una (HP).

Complainant

V/s.

HPSEBL & Others.

Respondents

Complaint No. 3325/3/20/011

1. The Executive Director (Pers.),
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2. Sr. Executive Engineer,
Electrical Division, HPSEBL,
Gagret, Distt. Una (HP).
3. Assistant Executive Engineer,
Electrical Sub-Division HPSEBL,
Tahliwala, Distt. Una (HP).

Respondents

The Certified copy of final order dated 24.09.2021 passed by the Hon'ble Forum in the aforesaid complaint is enclosed find herewith for further necessary action at your end please. The compliance be reported/intimated within one month after the receipt of order in the office.

DA:-As above.

Secretary,
Consumers Grievances Redressal Forum,
HPSEBL, Kasumpti Shimla-9.